

107TH CONGRESS  
1ST SESSION

**S. 1389**

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**AMENDMENT**



***In the House of Representatives, U. S.,***

*December 18, 2001.*

*Resolved*, That the bill from the Senate (S. 1389) entitled “An Act to provide for the conveyance of certain real property in South Dakota to the State of South Dakota with indemnification by the United States Government, and for other purposes”, do pass with the following

**AMENDMENT:**

Strike out all after the enacting clause and insert:

1       ***TITLE I—CONVEYANCE OF***  
2       ***HOMESTAKE MINE***

3   ***SEC. 101. SHORT TITLE.***

4       *This title may be cited as the “Homestake Mine Con-*  
5   *veyance Act of 2001”.*

6   ***SEC. 102. FINDINGS.***

7       *Congress finds the following:*

8           *(1) The United States is among the leading na-*  
9       *tions in the world in conducting basic scientific re-*  
10      *search.*

11          *(2) That leadership position strengthens the*  
12      *economy and national defense of the United States*  
13      *and provides other important benefits.*

1           (3) *The Homestake Mine in Lead, South Dakota,*  
2           *owned by the Homestake Mining Company of Cali-*  
3           *fornia, is approximately 8,000 feet deep and is situ-*  
4           *ated in a unique physical setting that is ideal for car-*  
5           *rying out certain types of particle physics and other*  
6           *research.*

7           (4) *The Mine has been selected by the National*  
8           *Underground Science Laboratory Committee, an*  
9           *independent panel of distinguished scientists, as the*  
10          *preferred site for the construction of the National Un-*  
11          *derground Science Laboratory.*

12          (5) *Such a laboratory would be used to conduct*  
13          *scientific research that would be funded and recog-*  
14          *nized as significant by the United States.*

15          (6) *The establishment of the laboratory is in the*  
16          *national interest and would substantially improve the*  
17          *capability of the United States to conduct important*  
18          *scientific research.*

19          (7) *For economic reasons, Homestake intends to*  
20          *cease operations at the Mine in 2001.*

21          (8) *On cessation of operations of the Mine,*  
22          *Homestake intends to implement reclamation actions*  
23          *that would preclude the establishment of a laboratory*  
24          *at the Mine.*

1           (9) *Homestake has advised the State that, after*  
2           *cessation of operations at the Mine, instead of closing*  
3           *the entire Mine, Homestake is willing to donate the*  
4           *underground portion of the Mine and certain other*  
5           *real and personal property of substantial value at the*  
6           *Mine for use as the National Underground Science*  
7           *Laboratory.*

8           (10) *Use of the Mine as the site for the labora-*  
9           *tory, instead of other locations under consideration,*  
10          *would result in a savings of millions of dollars for the*  
11          *Federal Government.*

12          (11) *If the Mine is selected as the site for the lab-*  
13          *oratory, it is essential that closure of the Mine not*  
14          *preclude the location of the laboratory at the Mine.*

15          (12) *Homestake is unwilling to donate, and the*  
16          *State is unwilling to accept, the property at the Mine*  
17          *for the laboratory if Homestake and the State would*  
18          *continue to have potential liability with respect to the*  
19          *transferred property.*

20          (13) *To secure the use of the Mine as the location*  
21          *for the laboratory and to realize the benefits of the*  
22          *proposed laboratory it is necessary for the United*  
23          *States to—*

1           (A) assume a portion of any potential fu-  
 2           ture liability of Homestake concerning the Mine;  
 3           and

4           (B) address potential liability associated  
 5           with the operation of the laboratory.

6 **SEC. 103. DEFINITIONS.**

7       *In this title:*

8           (1) *ADMINISTRATOR.*—The term “Adminis-  
 9           trator” means the Administrator of the Environ-  
 10          mental Protection Agency.

11          (2) *AFFILIATE.*—

12           (A) *IN GENERAL.*—The term “affiliate”  
 13           means any corporation or other person that con-  
 14           trols, is controlled by, or is under common con-  
 15           trol with Homestake.

16           (B) *INCLUSIONS.*—The term “affiliate” in-  
 17           cludes a director, officer, or employee of an affil-  
 18           iate.

19           (3) *CONVEYANCE.*—The term “conveyance”  
 20           means the conveyance of the Mine to the State under  
 21           section 104(a).

22           (4) *FUND.*—The term “Fund” means the Envi-  
 23           ronment and Project Trust Fund established under  
 24           section 108.

25           (5) *HOMESTAKE.*—

1                   (A) *IN GENERAL.*—*The term “Homestake”*  
 2                   *means the Homestake Mining Company of Cali-*  
 3                   *fornia, a California corporation.*

4                   (B) *INCLUSION.*—*The term “Homestake”*  
 5                   *includes—*

6                             (i) *a director, officer, or employee of*  
 7                             *Homestake;*

8                             (ii) *an affiliate of Homestake; and*

9                             (iii) *any successor of Homestake or*  
 10                            *successor to the interest of Homestake in the*  
 11                            *Mine.*

12                   (6) *INDEPENDENT ENTITY.*—*The term “inde-*  
 13                   *pendent entity” means an independent entity selected*  
 14                   *jointly by Homestake, the South Dakota Department*  
 15                   *of Environment and Natural Resources, and the*  
 16                   *Administrator—*

17                             (A) *to conduct a due diligence inspection*  
 18                             *under section 104(b)(2)(A); and*

19                             (B) *to determine the fair value of the Mine*  
 20                             *under section 105(a).*

21                   (7) *INDIAN TRIBE.*—*The term “Indian tribe” has*  
 22                   *the meaning given the term in section 4 of the Indian*  
 23                   *Self-Determination and Education Assistance Act (25*  
 24                   *U.S.C. 450b).*

25                   (8) *LABORATORY.*—

1           (A) *IN GENERAL.*—*The term “laboratory”*  
 2           *means the national underground science labora-*  
 3           *tory proposed to be established at the Mine after*  
 4           *the conveyance.*

5           (B) *INCLUSION.*—*The term “laboratory” in-*  
 6           *cludes operating and support facilities of the lab-*  
 7           *oratory.*

8           (9) *MINE.*—

9           (A) *IN GENERAL.*—*The term “Mine” means*  
 10          *the portion of the Homestake Mine in Lawrence*  
 11          *County, South Dakota, proposed to be conveyed*  
 12          *to the State for the establishment and operation*  
 13          *of the laboratory.*

14          (B)   *INCLUSIONS.*—*The term “Mine”*  
 15          *includes—*

16               (i) *real property, mineral and oil and*  
 17               *gas rights, shafts, tunnels, structures, back-*  
 18               *fill, broken rock, fixtures, facilities, and per-*  
 19               *sonal property to be conveyed for establish-*  
 20               *ment and operation of the laboratory, as*  
 21               *agreed upon by Homestake and the State;*  
 22               *and*

23               (ii) *any water that flows into the Mine*  
 24               *from any source.*

1           (C) *EXCLUSIONS.*—*The term “Mine” does*  
 2           *not include—*

3                     (i) *the feature known as the “Open*  
 4                     *Cut”;*

5                     (ii) *any tailings or tailings storage fa-*  
 6                     *cility (other than backfill in the portion of*  
 7                     *the Mine described in subparagraph (A)); or*  
 8                     (iii) *any waste rock or any site used*  
 9                     *for the dumping of waste rock (other than*  
 10                    *broken rock in the portion of the Mine de-*  
 11                    *scribed in subparagraph (A)).*

12       (10) *PERSON.*—*The term “person” means—*

13                     (A) *an individual;*

14                     (B) *a trust, firm, joint stock company, cor-*  
 15                     *poration (including a government corporation),*  
 16                     *partnership, association, limited liability com-*  
 17                     *pany, or any other type of business entity;*

18                     (C) *a State or political subdivision of a*  
 19                     *State;*

20                     (D) *a foreign governmental entity;*

21                     (E) *an Indian tribe; and*

22                     (F) *any department, agency, or instrumen-*  
 23                     *tality of the United States.*

24       (11) *PROJECT SPONSOR.*—*The term “project*  
 25       *sponsor” means an entity that manages or pays the*

1        *costs of 1 or more projects that are carried out or pro-*  
 2        *posed to be carried out at the laboratory.*

3            (12) *SCIENTIFIC ADVISORY BOARD.*—*The term*  
 4        *“Scientific Advisory Board” means the entity des-*  
 5        *ignated in the management plan of the laboratory to*  
 6        *provide scientific oversight for the operation of the*  
 7        *laboratory.*

8            (13) *STATE.*—

9            (A) *IN GENERAL.*—*The term “State” means*  
 10        *the State of South Dakota.*

11            (B) *INCLUSIONS.*—*The term “State” in-*  
 12        *cludes an institution, agency, officer, or em-*  
 13        *ployee of the State.*

14    **SEC. 104. CONVEYANCE OF REAL PROPERTY.**

15        (a) *IN GENERAL.*—

16            (1) *DELIVERY OF DOCUMENTS.*—*Subject to para-*  
 17        *graph (2) and subsection (b) and notwithstanding*  
 18        *any other provision of law, on the execution and de-*  
 19        *livery by Homestake of 1 or more quitclaim deeds or*  
 20        *bills of sale conveying to the State all right, title, and*  
 21        *interest of Homestake in and to the Mine, title to the*  
 22        *Mine shall pass from Homestake to the State.*

23            (2) *CONDITION OF MINE ON CONVEYANCE.*—*The*  
 24        *Mine shall be conveyed as is, with no representations*  
 25        *as to the condition of the property.*

1       **(b) REQUIREMENTS FOR CONVEYANCE.—**

2               **(1) IN GENERAL.—***The Administrator's accept-*  
 3       *ance of the final report or certification of the inde-*  
 4       *pendent entity under paragraph (4) is a condition*  
 5       *precedent of the conveyance and of the assumption of*  
 6       *liability by the United States in accordance with this*  
 7       *title.*

8               **(2) DUE DILIGENCE INSPECTION.—**

9               **(A) IN GENERAL.—***As a condition precedent*  
 10       *of conveyance and of Federal participation de-*  
 11       *scribed in this title, Homestake shall permit an*  
 12       *independent entity to conduct a due diligence in-*  
 13       *spection of the Mine to determine whether any*  
 14       *condition of the Mine may present an imminent*  
 15       *and substantial endangerment to public health*  
 16       *or the environment.*

17               **(B) CONSULTATION.—***As a condition prece-*  
 18       *dent of the conduct of a due diligence inspection,*  
 19       *the Administrator, in consultation with*  
 20       *Homestake, the South Dakota Department of En-*  
 21       *vironment and Natural Resources, and the inde-*  
 22       *pendent entity, shall define the methodology and*  
 23       *standards to be used, and other factors to be con-*  
 24       *sidered, by the independent entity in—*

1                   (i) the conduct of the due diligence in-  
2                   spection;

3                   (ii) the scope of the due diligence in-  
4                   spection; and

5                   (iii) the time and duration of the due  
6                   diligence inspection.

7                   (C) *PARTICIPATION BY HOMESTAKE.*—*Noth-*  
8                   *ing in this paragraph requires Homestake to*  
9                   *participate in the conduct of the due diligence*  
10                  *inspection.*

11                  (3) *REPORT TO THE ADMINISTRATOR.*—

12                  (A) *IN GENERAL.*—*The independent entity*  
13                  *shall submit to the Administrator a report*  
14                  *that—*

15                         (i) *describes the results of the due dili-*  
16                         *gence inspection under paragraph (2); and*

17                         (ii) *identifies any condition of or in*  
18                         *the Mine that may present an imminent*  
19                         *and substantial endangerment to public*  
20                         *health or the environment.*

21                  (B) *PROCEDURE.*—

22                         (i) *DRAFT REPORT.*—*Before finalizing*  
23                         *the report under this paragraph, the inde-*  
24                         *pendent entity shall—*

25                                 (I) *issue a draft report;*

1                   (II) submit to the Administrator,  
2                   Homestake, and the State a copy of the  
3                   draft report;

4                   (III) issue a public notice request-  
5                   ing comments on the draft report that  
6                   requires all such comments to be filed  
7                   not later than 45 days after issuance of  
8                   the public notice; and

9                   (IV) during that 45-day public  
10                  comment period, conduct at least 1  
11                  public hearing in Lead, South Dakota,  
12                  to receive comments on the draft re-  
13                  port.

14                  (ii) *FINAL REPORT*.—In the final re-  
15                  port submitted to the Administrator under  
16                  this paragraph, the independent entity shall  
17                  respond to, and incorporate necessary  
18                  changes suggested by, the comments received  
19                  on the draft report.

20                  (4) *REVIEW AND APPROVAL BY ADMINIS-*  
21                  *TRATOR*.—

22                  (A) *IN GENERAL*.—Not later than 60 days  
23                  after receiving the final report under paragraph  
24                  (3), the Administrator shall—

25                  (i) review the report; and

1                   (ii) notify the State in writing of ac-  
2                   ceptance or rejection of the final report.

3                   (B) *CONDITIONS FOR REJECTION.*—The Ad-  
4                   ministrators may reject the final report if the re-  
5                   port discloses 1 or more conditions that—

6                   (i) as determined by the Adminis-  
7                   trators, may present an imminent and sub-  
8                   stantial endangerment to the public health  
9                   or the environment and require a response  
10                  action; or

11                  (ii) otherwise make the conveyance in  
12                  section 104, or the assumption of liability,  
13                  the release of liability, or the indemnifica-  
14                  tion in section 106 contrary to the public  
15                  interest.

16                  (C) *RESPONSE ACTIONS AND CERTIFI-*  
17                  *CATION.*—

18                  (i) *RESPONSE ACTIONS.*—

19                  (I) *IN GENERAL.*—If the Adminis-  
20                  trators reject the final report,  
21                  Homestake may carry out or bear the  
22                  cost of, or permit the State or another  
23                  person to carry out or bear the cost of,  
24                  such response actions as are necessary  
25                  to correct any condition identified by

1           *the Administrator under subparagraph*  
2           *(B)(i) that may present an imminent*  
3           *and substantial endangerment to pub-*  
4           *lic health or the environment.*

5                   (II) *LONG-TERM RESPONSE AC-*  
6                   *TIONS.—*

7                           (aa) *IN GENERAL.—In a case*  
8                           *in which the Administrator deter-*  
9                           *mines that a condition identified*  
10                           *by the Administrator under sub-*  
11                           *paragraph (B)(i) requires con-*  
12                           *tinuing response action, or re-*  
13                           *sponse action that can be com-*  
14                           *pleted only as part of the final*  
15                           *closure of the laboratory, it shall*  
16                           *be a condition of conveyance that*  
17                           *Homestake, the State, or another*  
18                           *person deposit into the Fund such*  
19                           *amount as is estimated by the*  
20                           *independent entity, on a net*  
21                           *present value basis and after tak-*  
22                           *ing into account estimated inter-*  
23                           *est on that basis to be sufficient to*  
24                           *pay the costs of the long-term re-*  
25                           *sponse action or the response ac-*

tion that will be completed as part of the final closure of the laboratory.

(bb) *LIMITATION ON USE OF FUNDS.*—None of the funds deposited into the Fund under item (aa) shall be expended for any purpose other than to pay the costs of the long-term response action, or the response action that will be completed as part of the final closure of the Mine, identified under that item.

(ii) *CONTRIBUTION BY HOMESTAKE.*—The total amount that Homestake may expend, pay, or deposit into the Fund under subclauses (I) and (II) of clause (i) shall not exceed—

(I) \$75,000,000; less

(II) the fair value of the Mine as determined under section 105(a).

(iii) *CERTIFICATION.*—

(I) *IN GENERAL.*—After any response actions described in clause (i)(I) are carried out and any required

1           *funds are deposited under clause*  
 2           *(i)(II), the independent entity may*  
 3           *certify to the Administrator that the*  
 4           *conditions for rejection identified by*  
 5           *the Administrator under subparagraph*  
 6           *(B) have been corrected.*

7                       *(II) ACCEPTANCE OR REJECTION*  
 8           *OF CERTIFICATION.—Not later than 60*  
 9           *days after an independent entity*  
 10          *makes a certification under subclause*  
 11          *(I), the Administrator shall accept or*  
 12          *reject the certification.*

13          *(c) REVIEW OF CONVEYANCE.—For the purposes of the*  
 14          *conveyance, the requirements of this section shall be consid-*  
 15          *ered to be sufficient to meet any requirement of the National*  
 16          *Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).*

17   **SEC. 105. ASSESSMENT OF PROPERTY.**

18          *(a) VALUATION OF PROPERTY.—The independent enti-*  
 19          *ty shall assess the fair value of the Mine.*

20          *(b) FAIR VALUE.—For the purposes of this section, the*  
 21          *fair value of the Mine shall be the fair market value as de-*  
 22          *termined by an appraisal in conformance with the Uniform*  
 23          *Appraisal Standards for Federal Land Acquisition. To the*  
 24          *extent appraised items only have value to the Federal Gov-*  
 25          *ernment for the purpose of constructing the laboratory, the*

1 appraiser shall also add to the assessment of fair value the  
 2 estimated cost of replacing the shafts, winzes, hoists, tun-  
 3 nels, ventilation system and other equipment and improve-  
 4 ments at the Mine that are expected to be used at, or that  
 5 will be useful to, the laboratory.

6 (c) *REPORT.*—Not later than the date on which each  
 7 report developed in accordance with section 104(b)(3) is  
 8 submitted to the Administrator, the independent entity de-  
 9 scribed in subsection (a) shall submit to the State a report  
 10 that identifies the fair value assessed under subsection (a).

11 **SEC. 106. LIABILITY.**

12 (a) *ASSUMPTION OF LIABILITY.*—

13 (1) *ASSUMPTION.*—Subject to paragraph (2),  
 14 notwithstanding any other provision of law, on com-  
 15 pletion of the conveyance in accordance with this  
 16 title, the United States shall assume any and all li-  
 17 ability relating to the Mine and laboratory, including  
 18 liability for—

19 (A) damages;

20 (B) reclamation;

21 (C) the costs of response to any hazardous  
 22 substance (as defined in section 101 of the Com-  
 23 prehensive Environmental Response, Compensation,  
 24 and Liability Act of 1980 (42 U.S.C.  
 25 9601)), contaminant, or other material on,

1           under, or relating to the Mine and laboratory;  
2           and

3           (D) closure of the Mine and laboratory.

4           (2) *CLAIMS AGAINST UNITED STATES.*—In the  
5           case of any claim brought against the United States,  
6           the United States shall be liable for—

7           (A) damages under paragraph (1)(A), only  
8           to the extent that an award of damages is made  
9           in a civil action brought under chapter 171 of  
10          title 28, United States Code, notwithstanding  
11          that the act or omission giving rise to the claim  
12          was not committed by an employee of the United  
13          States; and

14          (B) response costs under paragraph (1)(C),  
15          only to the extent that an award of response  
16          costs is made in a civil action brought under—

17                  (i) the Federal Water Pollution Control  
18                  Act (33 U.S.C. 1251 et seq.);

19                  (ii) the Solid Waste Disposal Act (42  
20                  U.S.C. 6901 et seq.);

21                  (iii) the Comprehensive Environmental  
22                  Response, Compensation, and Liability Act  
23                  of 1980 (42 U.S.C. 9601 et seq.); or

1                   (iv) any other applicable Federal envi-  
 2                   ronmental law, as determined by the Ad-  
 3                   ministrator.

4           (b) *LIABILITY PROTECTION.*—On completion of the  
 5 conveyance, neither Homestake nor the State shall be liable  
 6 to any person or the United States for injuries, costs, in-  
 7 junctive relief, reclamation, damages (including damages to  
 8 natural resources or the environment), or expenses, or liable  
 9 under any other claim (including claims for indemnifica-  
 10 tion or contribution, claims by third parties for death, per-  
 11 sonal injury, illness, or loss of or damage to property, or  
 12 claims for economic loss), under any law (including a regu-  
 13 lation) for any claim arising out of or in connection with  
 14 contamination, pollution, or other condition, use, or closure  
 15 of the Mine and laboratory, regardless of when a condition  
 16 giving rise to the liability originated or was discovered.

17           (c) *INDEMNIFICATION.*—Notwithstanding any other  
 18 provision of law, on completion of the conveyance in accord-  
 19 ance with this title, the United States shall indemnify, de-  
 20 fend, and hold harmless Homestake and the State from and  
 21 against—

22                   (1) any and all liabilities and claims described  
 23                   in subsection (a), without regard to any limitation  
 24                   under subsection (a)(2); and

1           (2) *any and all liabilities and claims described*  
 2           *in subsection (b).*

3           (d) *WAIVER OF SOVEREIGN IMMUNITY.—For purposes*  
 4           *of this title, the United States waives any claim to sovereign*  
 5           *immunity with respect to any claim of Homestake or the*  
 6           *State under this title.*

7           (e) *TIMING FOR ASSUMPTION OF LIABILITY.—If the*  
 8           *conveyance is effectuated by more than 1 legal transaction,*  
 9           *the assumption of liability, liability protection, indem-*  
 10           *nification, and waiver of sovereign immunity provided for*  
 11           *under this section shall apply to each legal transaction, as*  
 12           *of the date on which the transaction is completed and with*  
 13           *respect to such portion of the Mine as is conveyed under*  
 14           *that transaction.*

15           (f) *EXCEPTIONS FOR CERTAIN CLAIMS.—Nothing in*  
 16           *this section constitutes an assumption of liability by the*  
 17           *United States, or relief of liability of Homestake, for—*

18           (1) *any unemployment, worker’s compensation,*  
 19           *or other employment-related claim or cause of action*  
 20           *of an employee of Homestake that arose before the*  
 21           *date of conveyance;*

22           (2) *any claim or cause of action that arose before*  
 23           *the date of conveyance, other than claims relating to*  
 24           *environmental response costs or natural resource*  
 25           *damages; or*

1           (3) *any violation of any provision of criminal*  
 2       *law.*

3       (g) *EXCEPTION FOR OFF-SITE ENVIRONMENTAL*  
 4 *CLAIMS.—Nothing in this title constitutes an assumption*  
 5 *of liability by the United States, relief of liability for*  
 6 *Homestake, or obligation to indemnify Homestake, for any*  
 7 *claim, injury, damage, liability, or reclamation or cleanup*  
 8 *obligation with respect to any property or asset that is not*  
 9 *conveyed under this title, except to the extent that any such*  
 10 *claim, injury, damage, liability, or reclamation or cleanup*  
 11 *obligation is based on activities or events at the Mine subse-*  
 12 *quent to the date of conveyance.*

13 **SEC. 107. INSURANCE COVERAGE.**

14       (a) *PROPERTY AND LIABILITY INSURANCE.—*

15           (1) *IN GENERAL.—To the extent property and li-*  
 16 *ability insurance is available and subject to the re-*  
 17 *quirements described in paragraph (2), the State shall*  
 18 *purchase property and liability insurance for the*  
 19 *Mine and the operation of the laboratory to provide*  
 20 *coverage against the liability described in subsections*  
 21 *(a) and (b) of section 106.*

22           (2) *REQUIREMENTS.—The requirements referred*  
 23 *to in paragraph (1) are the following:*

24               (A) *TERMS OF INSURANCE.—In deter-*  
 25 *mining the type, extent of coverage, and policy*

limits of insurance purchased under this subsection, the State shall—

(i) periodically consult with the Administrator and the Scientific Advisory Board; and

(ii) consider certain factors, including—

(I) the nature of the projects and experiments being conducted in the laboratory;

(II) the availability and cost of commercial insurance; and

(III) the amount of funding available to purchase commercial insurance.

(B) *ADDITIONAL TERMS.*—The insurance purchased by the State under this subsection may provide coverage that is—

(i) secondary to the insurance purchased by project sponsors; and

(ii) in excess of amounts available in the Fund to pay any claim.

(3) *FINANCING OF INSURANCE PURCHASE.*—

(A) *IN GENERAL.*—Subject to section 108, the State may finance the purchase of insurance required under this subsection by using—

1                   (i) funds made available from the  
2                   Fund; and

3                   (ii) such other funds as are received by  
4                   the State for the purchase of insurance for  
5                   the Mine and laboratory.

6                   (B) NO REQUIREMENT TO USE STATE  
7                   FUNDS.—Nothing in this title requires the State  
8                   to use State funds to purchase insurance re-  
9                   quired under this subsection.

10                  (4) ADDITIONAL INSURED.—Any insurance pur-  
11                  chased by the State under this subsection shall—

12                   (A) name the United States as an addi-  
13                   tional insured; or

14                   (B) otherwise provide that the United States  
15                   is a beneficiary of the insurance policy having  
16                   the primary right to enforce all rights of the  
17                   United States under the policy.

18                  (5) TERMINATION OF OBLIGATION TO PURCHASE  
19                  INSURANCE.—The obligation of the State to purchase  
20                  insurance under this subsection shall terminate on the  
21                  date on which—

22                   (A) the Mine ceases to be used as a labora-  
23                   tory; or

1                   (B) sufficient funding ceases to be available  
 2                   for the operation and maintenance of the Mine  
 3                   or laboratory.

4           (b) *PROJECT INSURANCE.*—

5                   (1) *IN GENERAL.*—The State, in consultation  
 6                   with the Administrator and the Scientific Advisory  
 7                   Board, may require, as a condition of approval of a  
 8                   project for the laboratory, that a project sponsor pro-  
 9                   vide property and liability insurance or other appli-  
 10                  cable coverage for potential liability associated with  
 11                  the project described in subsections (a) and (b) of sec-  
 12                  tion 106.

13                  (2) *ADDITIONAL INSURED.*—Any insurance ob-  
 14                  tained by the project sponsor under this section  
 15                  shall—

16                         (A) name the State and the United States  
 17                         as additional insureds; or

18                         (B) otherwise provide that the State and the  
 19                         United States are beneficiaries of the insurance  
 20                         policy having the primary right to enforce all  
 21                         rights under the policy.

22           (c) *STATE INSURANCE.*—

23                   (1) *IN GENERAL.*—To the extent required by  
 24                   State law, the State shall purchase, with respect to  
 25                   the operation of the Mine and the laboratory—

1                   (A) unemployment compensation insurance;

2                   and

3                   (B) worker's compensation insurance.

4                   (2) *PROHIBITION ON USE OF FUNDS FROM*  
5                   *FUND.*—A State shall not use funds from the Fund to  
6                   carry out paragraph (1).

7   **SEC. 108. ENVIRONMENT AND PROJECT TRUST FUND.**

8                   (a) *ESTABLISHMENT.*—On completion of the convey-  
9                   ance, the State shall establish, in an interest-bearing ac-  
10                  count at an accredited financial institution located within  
11                  the State, the Environment and Project Trust Fund.

12                  (b) *AMOUNTS.*—The Fund shall consist of—

13                       (1) an annual deposit from the operation and  
14                       maintenance funding provided for the laboratory in  
15                       an amount to be determined—

16                               (A) by the State, in consultation with the  
17                               Administrator and the Scientific Advisory  
18                               Board; and

19                               (B) after taking into consideration—

20                                       (i) the nature of the projects and ex-  
21                                       periments being conducted at the labora-  
22                                       tory;

23                                       (ii) available amounts in the Fund;

1                   (iii) any pending costs or claims that  
 2                   may be required to be paid out of the Fund;  
 3                   and

4                   (iv) the amount of funding required for  
 5                   future actions associated with the closure of  
 6                   the facility;

7                   (2) an amount determined by the State, in con-  
 8                   sultation with the Administrator and the Scientific  
 9                   Advisory Board, and to be paid by the appropriate  
 10                  project sponsor, for each project to be conducted,  
 11                  which amount—

12                  (A) shall be used to pay—

13                   (i) costs incurred in removing from the  
 14                   Mine or laboratory equipment or other ma-  
 15                   terials related to the project;

16                   (ii) claims arising out of or in connec-  
 17                   tion with the project; and

18                   (iii) if any portion of the amount re-  
 19                   mains after paying the expenses described  
 20                   in clauses (i) and (ii), other costs described  
 21                   in subsection (c); and

22                  (B) may, at the discretion of the State, be  
 23                  assessed—

24                   (i) annually; or

1                   (ii) in a lump sum as a prerequisite to  
2                   the approval of the project;

3                   (3) interest earned on amounts in the Fund,  
4                   which amount of interest shall be used only for a pur-  
5                   pose described in subsection (c); and

6                   (4) all other funds received and designated by the  
7                   State for deposit in the Fund.

8                   (c) *EXPENDITURES FROM FUND.*—Amounts in the  
9                   Fund shall be used only for the purposes of funding—

10                  (1) waste and hazardous substance removal or  
11                  remediation, or other environmental cleanup at the  
12                  Mine;

13                  (2) removal of equipment and material no longer  
14                  used, or necessary for use, in conjunction with a  
15                  project conducted at the laboratory;

16                  (3) a claim arising out of or in connection with  
17                  the conducting of such a project;

18                  (4) purchases of insurance by the State as re-  
19                  quired under section 107;

20                  (5) payments for and other costs relating to li-  
21                  ability described in section 106; and

22                  (6) closure of the Mine and laboratory.

23                  (d) *FEDERAL PAYMENTS FROM FUND.*—The United  
24                  States—

1           (1) *to the extent the United States assumes li-*  
 2           *ability under section 106—*

3                   (A) *shall be a beneficiary of the Fund; and*

4                   (B) *may direct that amounts in the Fund*  
 5           *be applied to pay amounts and costs described in*  
 6           *this section; and*

7           (2) *may take action to enforce the right of the*  
 8           *United States to receive 1 or more payments from the*  
 9           *Fund.*

10       (e) *NO REQUIREMENT OF DEPOSIT OF PUBLIC*  
 11       *FUNDS.—Nothing in this section requires the State to de-*  
 12       *posit State funds as a condition of the assumption by the*  
 13       *United States of liability, or the relief of the State or*  
 14       *Homestake from liability, under section 106.*

15       **SEC. 109. WASTE ROCK MIXING.**

16       *After completion of the conveyance, the State shall ob-*  
 17       *tain the approval of the Administrator before disposing of*  
 18       *any material quantity of laboratory waste rock if—*

19               (1) *the disposal site is on land not conveyed*  
 20               *under this title; and*

21               (2) *the State determines that the disposal could*  
 22               *result in commingling of laboratory waste rock with*  
 23               *waste rock disposed of by Homestake before the date*  
 24               *of conveyance.*

1 **SEC. 110. REQUIREMENTS FOR OPERATION OF LABORA-**  
 2 **TORY.**

3 *After the conveyance, nothing in this title exempts the*  
 4 *laboratory from compliance with any law (including a Fed-*  
 5 *eral environmental law).*

6 **SEC. 111. CONTINGENCY.**

7 *This title shall be effective contingent on the making*  
 8 *of an award by the National Science Foundation for the*  
 9 *establishment of the laboratory at the Mine.*

10 **SEC. 112. OBLIGATION IN THE EVENT OF NONCONVEYANCE.**

11 *If the conveyance under this title does not occur, any*  
 12 *obligation of Homestake relating to the Mine shall be lim-*  
 13 *ited to such reclamation or remediation as is required*  
 14 *under any applicable law other than this title.*

15 **SEC. 113. PAYMENT AND REIMBURSEMENT OF COSTS.**

16 *The United States may seek payment—*

17 *(1) from the Fund, under section 108(d), to pay*  
 18 *or reimburse the United States for amounts payable*  
 19 *or liabilities incurred under this title; and*

20 *(2) from available insurance, to pay or reim-*  
 21 *burse the United States and the Fund for amounts*  
 22 *payable or liabilities incurred under this title.*

23 **SEC. 114. CONSENT DECREES.**

24 *Nothing in this title affects any obligation of a party*  
 25 *under—*

1           (1) *the 1990 Remedial Action Consent Decree*  
2           *(Civ. No. 90–5101 D. S.D.); or*

3           (2) *the 1999 Natural Resource Damage Consent*  
4           *Decree (Civ. Nos. 97–5078 and 97–5100, D. S.D.).*

5 **SEC. 115. AUTHORIZATION OF APPROPRIATIONS.**

6           *There are authorized to be appropriated such sums as*  
7 *are necessary to carry out this title.*

Attest:

*Clerk.*